

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SOCIÉTÉ DES BAINS DE MER ET DU  
CERCLE DES ETRANGERS À MONACO,

Plaintiff,

v.

MGM MIRAGE and VICTORIA PARTNERS,  
L.P.,

Defendants.

ECF Case

Case No. 08-CV-03157

**DECLARATION OF JONATHAN W. FOUNTAIN IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS, OR, IN THE ALTERNATIVE,  
TO TRANSFER THIS CASE TO THE DISTRICT OF NEVADA**

I, Jonathan W. Fountain, declare under penalty of perjury under the laws of the United States that the following is true:

1. I am competent to testify in this action and have personal knowledge of the facts set forth below, except for those facts that I have so stated are made upon information and belief and, as to those facts, I believe them to be true.

2. I am employed by Lewis and Roca LLP as an associate attorney.

3. In this declaration I refer to the Plaintiff, Société des Bains de Mer et du Cercle des Etrangers à Monaco, as "SBM."

4. On July 12, 2001, Victoria Partners filed federal trademark application Serial No. 76/284,329 (the "'329 Application'"), seeking registration of the MONTE CARLO mark in International Class 41 for use in connection with casino services. A true and accurate copy of the '329 Application is attached hereto as Exhibit A. On February 15, 2005, SBM ("Opposer") filed Opposition No. 91164390 (the "'390 Opposition'") against Victoria Partners ("Applicant") with the United States Trademark Trial and Appeal Board (the "TTAB"). A true and accurate copy of SBM's Notice of Opposition is attached hereto as Exhibit B. In the '390 Opposition,

SBM opposed Victoria Partners' attempts to obtain a federal trademark registration for the MONTE CARLO mark. Lewis and Roca LLP represents Victoria Partners in the '390 Opposition.

6. In connection with the '390 Opposition, on August 16, 2007, SBM served Lewis and Roca LLP with a copy of Opposer's Objections and Responses to Applicant's Third Set of Interrogatories. A true and accurate copy, with page numbering added, is attached hereto as Exhibit C. In its responses to Interrogatory 9, SBM admitted that its New York office is operated by Societe Des Baines de Mer USA, Inc., ("SBM USA, Inc."). (*See id.* at p. 7.)

7. A true and accurate copy of a record of the Delaware Division of Corporations is attached hereto as Exhibit D. This record indicates that SBM USA, Inc. is a Delaware corporation. According to SBM, the offices of SBM USA, Inc. are located at 565 Park Avenue, 23rd Floor, New York, NY 10021. *See* Exhibit C, *supra*. A true and accurate copy of a webpage from the Consulate General of Monaco in New York is attached hereto as Exhibit E. This webpage indicates that the Consulate of Monaco is located at the same address, 565 Park Avenue, 23rd Floor, New York, NY 10021.

8. Section 1301 of the New York Business Corporation law requires foreign corporations to obtain authorization to conduct business in the State of New York. *See* N.Y. Bus. Corp. § 1301.

9. The New York Department of State Division of Corporations maintains a searchable Internet database of business organizations authorized to conduct business within the State of New York. The website is located at: <http://www.dos.state.ny.us>.

a. A search of "active" (as opposed to "all") business organizations, using the "contains" option, conducted on May 19, 2008, for the term "Societe" returned 62 results. A true and accurate copy of the search results are attached hereto as Exhibit F. Neither SBM nor SBM USA, Inc. are listed in the search results.

b. A search of "active" (as opposed to "all") business organizations, using the "contains" option, conducted on May 19, 2008 for the term "Bains" returned 13 results. A true

and accurate copy of the search results are attached hereto as Exhibit G. Neither SBM nor SBM USA, Inc. are listed in the search results.

c. A search of “active” (as opposed to “all”) business organizations, using the “contains” option, conducted on May 19, 2008 for the term “Cercle” returned 9 results. A true and accurate copy of the search results are attached hereto as Exhibit H. Neither SBM nor SBM USA, Inc. are listed in the search results.

d. A search of “active” (as opposed to “all”) business organizations, using the “contains” option, conducted on May 19, 2008 for the term “Etrangers” returned no results. A true and accurate copy of the search results are attached hereto as Exhibit I. Neither SBM nor SBM USA, Inc. are listed in the search results.

10. It does not appear that SBM or SBM USA, Inc. are registered with the New York Secretary of State or otherwise authorized to conduct business within the State of New York.

11. On May 19, 2008, I visited the Internet webpage for the United States Patent and Trademark Office (the “USPTO”). I conducted a search for “live” federal trademark registrations or applications owned by Societe Des Baines de Mer USA, Inc. To do I searched the “Owner Name and Address” field for the terms “Societe,” “Bains,” and “Mer.” My search returned 22 results. A true and accurate copy of the search results is attached hereto as Exhibit J. All 22 of the applications and registrations list SBM as the owner, not SBM USA, Inc.

12. In the ‘390 Opposition, Victoria Partners served the following interrogatory upon SBM’s counsel:

Identify the date on which [SBM] learned of [Victoria Partners’] use in the United States of the MONTE CARLO mark in connection with a resort hotel or casino and describe how [SBM] first became aware of such use. If [SBM] cannot determine the exact date, provide the . . . best approximation of the date.

SBM answered this interrogatory as follows:

[SBM’s] best approximation of the date on which [it] learned of [Victoria Partners’] use in United States of the MONTE CARLO designation is the date on which [Victoria Partners] first began using the mark in commerce.

A true and accurate copy of Victoria Partners’ interrogatory and SBM’s answer is attached

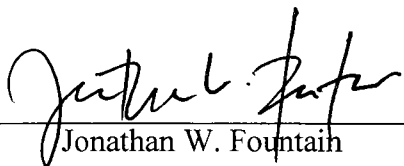
hereto as Exhibit K. SBM's directeur general, Mr. Bernard Lambert, affirmed the truth of this answer. (*See id.* at pp. 3-4.) A true and accurate copy of Mr. Lambert's affirmation is attached hereto as Exhibit L.

13. A press release issued by Wynn Resorts, Ltd. on or about June 20, 2003, describes SBM's purchase of 3,000,000 shares of Wynn Resorts' common stock for \$45,000,000 USD as well as the formation of a strategic business alliance with Wynn Resorts. According to the press release, "The strategic alliance includes an exchange of management expertise and the development of cross-marketing initiatives between Wynn Resorts and SBM." A true and accurate copy of the press release is attached hereto as Exhibit M.

14. On May 19, 2008, I searched for round-trip flights between Paris, France, and Las Vegas, Nevada using an Internet search engine located at <http://www.kayak.com>. I searched for flights departing Paris, France, on Sunday, June 1, 2008, and returning on Saturday, June 7, 2008. The search returned 512 results. A true and accurate copy of the search results is attached hereto as Exhibit N.

15. In the '390 Opposition, Victoria Partners identified the following thirteen (13) witnesses: Tony Alamo; Kevin Blair; Mike Catallano; April Chaparian; Mike Ensign; Michelle Knolls; Yvette Landau; John Marz; Chris McGhey; Ted Quirk; Bill Richardson; Glen Schaeffer; and Whitney Thier.

EXECUTED: this 19th day of May, 2008.

  
\_\_\_\_\_  
Jonathan W. Fountain



07-12-2001

U.S. Patent & TMO/c/TM Mail Rpt Dt #26

Applicant : Victoria Partners, a Nevada Partnership  
Address : 3770 Las Vegas Boulevard South  
Las Vegas, Nevada 89109  
Mark : MONTE CARLO  
Services : Casino services, namely, operation of a full-service casino

**MONTE CARLO**



**76284329**

76284329

TRADEMARK APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

07/18/2001 EPINA1 00000038 76284329  
01 FC:361 325.00 OP

MARK G. TRATOS\*  
EDWARD J. QUIRK  
MICHAEL J. McCUE  
WHITNEY THIER  
I. MICHAEL BAK-BOYCHUK\* ‡  
ROB L. PHILLIPS\* ‡  
NANCY A. RAMIREZ\*  
JOHN L. KRIEGER\*  
LAURI S. THOMPSON\*  
DANA B. ROBINSON\*  
JENNA F. KARADBIL

OF COUNSEL:  
R. RICHARD COSTELLO

CALIFORNIA ONLY:  
PAMELA PARKER

‡ REGISTERED PATENT ATTORNEY



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SUITE 500 NORTH  
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\*ALSO AT:  
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FAX: (323) 656-4366

WEB SITE: [www.quirkandtratos.com](http://www.quirkandtratos.com)  
E-MAIL: [q&t@quirkandtratos.com](mailto:q&t@quirkandtratos.com)

July 10, 2001

**EXPRESS MAIL**

Assistant Commissioner for Trademarks  
BOX NEW APP FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Sir:

Enclosed please find a federal service mark application, on behalf of Victoria Partners, for the mark **MONTE CARLO** in Class 41 for casino services, namely, operation of a full-service casino, drawing page, and specimen, together with our Firm check in the amount of \$325 for the requisite filing fee.

Respectfully submitted,


  
Edward J. Quirk

Enclosures.

G:\JSellin\CLIENTS\ICC\montecarlo41.app.wpd

I, Judith J. Sellin, do hereby certify that the foregoing documents are being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to the Assistant Commissioner for Trademarks, BOX NEW APP FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on this date of

July 12, 2001.

  
Judith J. Sellin

EL 854239379 US  
Express Mail Label Number

7-12-01  
Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**MARK: MONTE CARLO**

**INTERNATIONAL CLASS: 41**

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

Applicant : Victoria Partners,  
a Nevada Partnership

Address : 3770 Las Vegas Boulevard South  
Las Vegas, Nevada 89109

**STATEMENT**

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing on or in connection with the following services:

**Casino services, namely, operation of a full-service casino**, in International Class 41;

and requests that said mark be registered in the United States Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. § 1051, et seq., as amended).

The mark has become distinctive of the services through the Applicant's substantially exclusive and continuous use in commerce in the area for which registration is sought for at least the five years immediately before the date of this statement.

Registration of the mark is sought for all states of the United States, except Montana. Based upon information and belief, a local business, located at Post Office Box 20711, Billings, Montana, 59104, operates a gambling establishment under the "Monte Carlo" name. The gambling business is limited to the play of certain types



of gaming machines, specifically, poker and keno.

The mark is used in advertising and on signage.

One specimen showing the mark as actually used is presented herewith.

**DECLARATION**

The undersigned declares that he is properly authorized to execute this application and declaration on behalf of said applicant; he believes said applicant to be the owner of the mark sought to be registered, or, if the application is being filed under Section 1051(b) of Title 15 of the United States Code, he believes said applicant is entitled to use such mark in commerce; that to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce in the area for which registration is sought, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

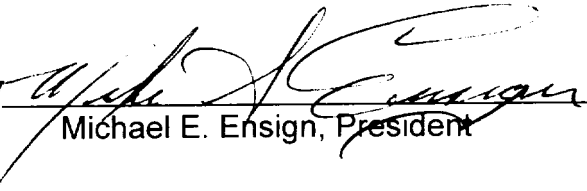
VICTORIA PARTNERS,  
A Nevada Partnership

By GOLDSTRIKE, L.V., Its Partner

By MSE INVESTMENTS, INC., Its Member

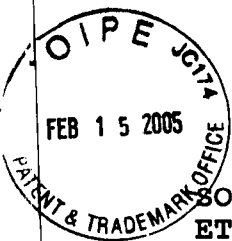
Date: 6/26/01

By

  
Michael E. Ensign, President

**POWER OF ATTORNEY**

Applicant hereby appoint QUIRK & TRATOS to prosecute this application, to register, to transact all business in the Trademark Office in connection therewith, and to receive the Certificate of Registration. Every member of that law firm, and every attorney at law associated with that law firm, is hereby authorized to sign any paper, or conduct any business, on behalf of the applicant in this case. It is requested that all telephone calls and correspondence be directed to EDWARD J. QUIRK, ESQ., QUIRK & TRATOS, 3773 Howard Hughes Parkway, Suite 500 North, Las Vegas, Nevada 89109, (702) 792-3773.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SOCIETE ANONYME DES BAINES DE MER )  
ET DU CERCLE DES ETRANGERS A MONACO)

Opposer,

vs.

VICTORIA PARTNERS

Applicant.

Published in Official Gazette  
of October 19, 2004

Opposition No.

Application Serial  
No. 76/284,329

**NOTICE OF OPPOSITION**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Sir:

Opposer, **SOCIETE ANONYME DES BAINES DE MER ET DU CERCLE DES ETRANGERS A MONACO**, a corporation organized under the laws of Monaco, located and doing business at Place du Casino, MC 98000 Monte-Carlo, Principality of Monaco, believes that it will be damaged by registration of the mark, MONTE CARLO, presented in pending trademark application Serial No. 76/284,329, and consequently opposes same.

Application S.N. 76/284,329 is directed to the mark, MONTE CARLO, as applied to casino services, namely operation of a full service casino in International Class 41.

02/23/2005 KBIBBONS 00000099 082455 76284329

01 FC:6402 100.00 DA 200.00 OP **GROUND'S OF OPPOSITION**

1. Opposer owns, and operates, historic properties in Monte Carlo, Monaco, including several resort and casino facilities. One of its properties is the internationally known casino that has operated under the CASINO DE MONTE CARLO trademark since 1863. The mark is registered in Monaco, and counterpart U.S. trademark application Serial No. 76/404,532, filed May 2, 2002, is presently pending in the U.S. Trademark Office.



02-15-2005

2. Opposer has promoted, and presently promotes its casino, bearing the mark, CASINO DE MONACO, along with its other properties, on an international scale. Since 1984, Opposer has maintained an office in New York to promote its properties to North American customers and clients, with particular emphasis upon the U.S. market.

3. Opposer's office in New York is staffed with four employees, and has an annual budget of \$1,000,000 for promotional efforts.

4. Opposer's promotions within the United States include trade show participation, advertising campaigns, charity partnerships, direct mail solicitation, telephone marketing, solicitation of media coverage, and maintenance of a web site discussing the diverse services rendered under the mark, CASINO DE MONTE CARLO.

5. Opposer's reputation has been enhanced, over the past several years, by television programs and movies set in Monaco and featuring story lines about the entertainment and casino services rendered by CASINO DE MONTE CARLO. Articles appearing in newspapers, magazines, travel guides, and other periodicals have discussed the merits of CASINO DE MONTE CARLO, and have contributed to the celebrity of such casino. U.S. visitors to Monaco have returned home to tell friends and acquaintances about such casino over the past several years.

6. Opposer initiated procedures to police its mark, CASINO DE MONTE CARLO, as unauthorized users, and imitators, sought to capitalize on the fame and good will associated with such mark in the U.S. marketplace. The policing efforts have led to lawsuits in U.S. courts to enforce Opposer's rights in its mark.

7. Opposer's use of its mark, CASINO DE MONTE CARLO, has been continuous and on-going in nature, and pre-dates

applicant's July 12, 2001 filing date by several years. Furthermore, Opposer's use of its mark, CASINO DE MONTE CARLO, in foreign commerce between Monaco and the United States pre-dates Applicant's alleged date of first use, i.e., May 1, 1995, by several years.

8. Opposer's continuous use of its mark, CASINO DE MONTE CARLO, its extensive promotional efforts, and the excellence of services rendered in conjunction with its mark, have given rise to world-wide recognition of such famous mark. To illustrate Opposer's casino is mentioned in the description of Monte Carlo, set forth in Merriam-Webster's Geographical Dictionary, Third Edition, 1997.

9. In view of the similarity of the respective marks, and the related nature of the casino services of the respective parties, in sight, sound and commercial impression, it is readily apparent that Applicant's mark, MONTE CARLO, so resembles Opposer's mark, CASINO DE MONTE CARLO, as to be likely to cause confusion, or to cause mistake, or to deceive.

10. Furthermore, casino services performed under Opposer's mark, CASINO DE MONTE CARLO are directed to the same consumers, as those envisioned by Applicant for its similar casino services rendered under the mark, MONTE CARLO. Consumers may assume that Opposer has sponsored, licensed, or otherwise approved of Applicant's mark and the related casino services; such assumption is incorrect.

11. If Applicant were to be granted a registration for MONTE CARLO, in International Class 41, such registration would negatively impact upon Opposer's pending application Serial No. 76/284,329, filed May 2, 2002. Furthermore, Opposer's on-going efforts to broaden and/or expand the services rendered in conjunction with CASINO DE MONTE CARLO, which extend beyond casino services, would be hampered or inhibited due to the potential conflict with Applicant's mark.


12. If Applicant were to be granted a registration for MONTE CARLO, in International Class 41, the registration would constitute a prima facie exclusive right to use its mark. Such registration would become a source of injury and damage to the Opposer.

**RELIEF SOUGHT**

**WHEREFOR**, in view of the grounds for opposition noted above, and in view of the potential damage to Opposer's business and commercial reputation, Opposer urges that application Serial No. 76/284,329 be rejected, that no registration thereon be granted for the mark MONTE CARLO in International Class 41, and that this opposition be sustained in favor of Opposer.

Our check #23770, in the amount of \$200.00, is enclosed to pay the fee for an Opposition in one class, namely, International Class 41. If any additional fees fall due and owing, such fees should be charged against Deposit Account 08-2455.

Respectfully submitted,

by   
Martin P. Hoffman, Reg. 22,261  
Counsel for  
**SOCIETE ANONYME DES BAINES DE MER  
ET DU CERCLE DES ETRANGERS  
A MONACO**, Opposer  
HOFFMAN, WASSON & GITLER, PC  
2461 South Clark Street  
Crystal Center 2 - Suite 522  
Arlington, VA 22202  
703.415.0100

February 10, 2005

Attorney's Docket: TO-7783.NOO/cat

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SOCIÉTÉ ANONYME DES BAINES DE  
MER ET DU CERCLE DES ETRANGERS À  
MONACO,

Opposer,

-against-

VICTORIA PARTNERS,

Applicant.

Opposition No. 91164390

Serial No.: 761284329

Mark: MONTE CARLO

Publication Date: October 19, 2004

**OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S  
THIRD SET OF INTERROGATORIES**

Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 33 of the Federal Rules of Civil Procedure, Opposer Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco ("SBM"), by its attorneys Quinn Emanuel Urquhart Oliver & Hedges, LLP, hereby responds and objects to Applicant's Third Set of Interrogatories as follows:

**General Responses**

The following general responses are incorporated by reference in Opposer's response to each and every Interrogatory below:

A. The amended responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility, or use at trial of any information produced, identified, or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such amended responses.



B. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or information omitted from the specific amended responses set forth below as a result of mistake, oversight, or inadvertence.

C. The amended responses set forth below are based upon Opposer's interpretation of the language used in the Interrogatories, and Opposer reserves its right to amend or to supplement its amended responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.

D. By making these amended responses, Opposer does not concede it is in possession of any information responsive to any particular Interrogatory or that any amended response given is relevant to this action.

E. Subject to and without waiving the general responses and objections set forth herein, Opposer provides herewith information responsive to the Interrogatories that Opposer has obtained to date.

F. Because Opposer may not have discovered all the information that is possibly within the scope of the Interrogatories, Opposer expressly reserves its right to amend or to supplement these Amended Responses and Objections with any additional information that emerges through discovery or otherwise.

**Specific Responses**

**Interrogatory No. 1.**

With respect to your answer to Interrogatory No. 9 of Applicant's First Set of Interrogatories, identify and state the location of each source of information you relied on to answer the interrogatory.

**Response to Interrogatory No. 1**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in seeking "each" source of information relied upon by Opposer. Subject to and without waiving the foregoing objection and the General Responses, the statistics cited in Opposer's response to Interrogatory No. 9 of Applicant's First Set of Interrogatories can be found in Opposer's production at SBM 00001-00008.

**Interrogatory No. 2.**

With respect to each good and/or service identified in your response to Document Request No. 22 of Applicant's First Set of Requests for the Production of Documents, identify the channels of trade in which the good was distributed and/or the service rendered.

**Response to Interrogatory No. 2**

Opposer objects to this Interrogatory on the ground that it is insusceptible of any reasonable interpretation. Neither Document Request No. 22, nor Opposer's response thereto, mentions or identifies any goods or services, and in fact, Opposer declined to produce documents in response to that request. Opposer declines to respond to this Interrogatory.

**Interrogatory No. 3.**

With respect to each good and/or service identified in your answer to Document Request No. 22 of Applicant's First Set of Requests for the Production of Documents, specifically identify the geographic locations where the goods were sold and/or the services rendered.

**Response to Interrogatory No. 3**

Opposer objects to this Interrogatory on the ground that it is insusceptible of any reasonable interpretation. Neither Document Request No. 22, nor Opposer's response thereto,

mentions or identifies any goods or services, and in fact, Opposer declined to produce documents in response to that request. Opposer declines to respond to this Interrogatory.

**Interrogatory No. 4.**

Identify all documents that show or tend to show that you used the CASINO DE MONTE-CARLO mark in advertising or commerce in the United States for each year from 1984 to the present.

**Response to Interrogatory No. 4**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in seeking identification of "all" documents showing use of the CASINO DE MONTE-CARLO mark in advertising or commerce for a period of more than 23 years. Subject to and without waiving the foregoing objection and the General Responses, Opposer hereby identifies the following documents it has already produced: SBM 00110-00124, SBM 00259-02012.

**Interrogatory No. 5.**

Identify all documents you may reply upon during the testimonial period to establish that the CASINO DE MONTE-CARLO mark was first used in the United States as early as 1928.

**Response to Interrogatory No. 5**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in seeking identification of "all" documents establishing that the CASINO DE MONTE-CARLO mark was first used in the United States as early as 1928 and on the ground that Opposer is not required, under Chapter 700 of the TBMP, to identify during discovery evidence it may introduce at trial. Opposer declines to respond to this Interrogatory.

**Interrogatory No. 6.**

Identify the print media, films, and Internet sites you have used to market, advertise, and/or promote the CASINO DE MONTE-CARLO mark in the United States.

Response to Interrogatory No. 6

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing and to the extent that the terms "print media" and "use" are vague, ambiguous, and undefined (notwithstanding the definition of "use" provided in Paragraph F of the Definitions). Subject to and without waiving the foregoing objections and the General Responses, Opposer hereby responds as follows:

Opposer markets, advertises, and promotes its CASINO DE MONTE-CARLO mark in the United States via its website at <<http://www.casinomontecarlo.com/en>>, distribution of its English language Society magazine, print advertisements, and direct mailings to customers, among other vehicles.

The Casino de Monte-Carlo has appeared in scores of films in the United States. The more popular films include, but are not limited to, The Red Shoes, Seven Thieves, Loser Takes All, Kaleidoscope, Never Say Never Again, Foolish Wives, Monte-Carlo, The Man Who Broke the Bank in Monte-Carlo, Charlie Chan in Monte-Carlo, and Goldeneye.

Finally, the Casino de Monte-Carlo has been mentioned in various print media in the United States, including newspapers, magazines, brochures, and other printed materials, including, but not limited to, the media in the documents identified below. Identification of each third party media outlet in which the CASINO DE MONTE-CARLO mark has been used would constitute an undue burden greater than the burden normally associated with discovery, the burden for ascertaining the answer from Opposer's document production is the same for each party, and the answer may be obtained from documents Bates labeled SBM 00110-00124, SBM 00259-02012, which Opposer has already produced.

**Interrogatory No. 7.**

For each year from 1984 to the present, identify each person and/or entity physically located in the United States that you have distributed your English-language Societe magazine to.

**Response to Interrogatory No. 7**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in seeking identification of potentially thousands of individuals and/or entities in the United States. Subject to and without waiving the foregoing objection and the General Responses, Opposer hereby answers as follows:

Each year, SBM distributes its English-language Society magazine to dozens of corporate clients.

**Interrogatory No. 8.**

Identify all things Opposer, or any third party, has or will distribute, sell, or use in the United States bearing the CASINO DE MONTE-CARLO mark.

**Response to Interrogatory No. 8**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in seeking "all things;" to the extent that it seeks information that is not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in that it is not restricted to the goods and services at issue in this dispute; and on the grounds that it is cumulative and duplicative of Interrogatory No. 8 of Applicant's First Set of Interrogatories. Subject to and without waiving the foregoing objections and the General Responses, Opposer hereby responds as follows:

Opposer has distributed, sold, and/or used in the United States each of the goods and services at issue in this dispute, including casino services under the CASINO DE MONTE-CARLO mark, including related hotel and resort services.

**Interrogatory No. 9.**

Identify each business organization located in the United States that you own, control, or fund (whether in-whole or in-part), or are affiliated with. For each business organization, identify: (a) the type of organization (i.e., partnership, corporation, LLC, etc.); (b) which State's laws the organization was formed under; (c) the date the organization was formed, and; (d) the address and phone number of the organization's principal office.

**Response to Interrogatory No. 9**

Opposer objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence and to the extent that the phrase "affiliated with" is vague and ambiguous. Subject to and without waiving the foregoing objection and the General Responses, Opposer hereby responds as follows:

Opposer owns, controls, funds (in-whole) Societe Des Baines de Mer U.S.A., Inc., which is located at 565 Park Avenue, New York, New York 10021.

**Interrogatory No. 10.**

Describe, in detail, your relationship, if any, with Societe Des Bains de Mer U.S.A., Inc.

**Response to Interrogatory No. 10**

Opposer objects to this Interrogatory to the extent that it is cumulative and duplicative of Interrogatory No. 9. Subject to and without waiving the foregoing objection and the General Responses, Opposer hereby responds as follows:

In addition to the facts set forth in Opposer's response to Interrogatory No. 9, Societe Des Bains de Mer U.S.A., Inc. is the virtual alter ego of Opposer. Its function is to advertise, promote, market, and sell Opposer's casinos - including the Casino de Monte-Carlo - hotels, and entertainment services in the United States. However, it is not the sole vehicle for such advertising, promotion, marketing, and sales in the United States.

DATED: August 16, 2007  
New York, New York

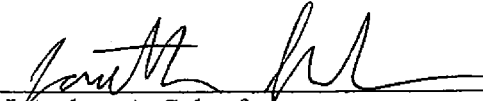
By: 

Robert L. Raskopf  
Claudia T. Bogdanos  
Jonathan A. Scharf  
51 Madison Avenue, 22nd Floor  
New York, New York 10010  
Tel: (212) 849-7173  
Fax: (212) 849-7100  
Email: jonathanscharf@quinnemanuel.com

ATTORNEYS FOR OPPOSER  
SOCIÉTÉ ANONYME DES BAINS DE MER ET  
DU CERCLE DES ETRANGERS À MONACO

**CERTIFICATE OF SERVICE**

I certify that on August 16, 2007 I caused a true copy of OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S THIRD SET OF INTERROGATORIES to be served on Applicant's attorney, Jonathan W. Fountain, Lewis and Roca LLP, 3993 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, via First Class mail.

  
\_\_\_\_\_  
Jonathan A. Scharf





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## Entity Details

### THIS IS NOT A STATEMENT OF GOOD STANDING

<a href="#">File Number:</a>	<b>0876866</b>	<a href="#">Incorporation Date / Formation Date:</a>	<b>08/02/1979</b> (mm/dd/yyyy)
<a href="#">Entity Name:</a>	<b>SOCIETE DES BAINS DE MER, U.S.A., INCORPORATED</b>		
<a href="#">Entity Kind:</a>	<b>CORPORATION</b>	<a href="#">Entity Type:</a>	<b>GENERAL</b>
<a href="#">Residency:</a>	<b>DOMESTIC</b>	State:	<b>DE</b>

### REGISTERED AGENT INFORMATION

Name:	<b>THE CORPORATION TRUST COMPANY</b>		
Address:	<b>CORPORATION TRUST CENTER 1209 ORANGE STREET</b>		
City:	<b>WILMINGTON</b>	County:	<b>NEW CASTLE</b>
State:	<b>DE</b>	Postal Code:	<b>19801</b>
Phone:	<b>(302)658-7581</b>		

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

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# NYS Department of State

## Division of Corporations

### Search Results

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A total of 62 entities were found.

#### Entity Name

[AMERICAN ET CANADIAN, IMPORT ET EXPORT CP., SOCIETE ANONYME FRANCAISE](#)  
[AMERICAN SECTION OF THE SOCIETE DE CHIMIE INDUSTRIELLE, INC.](#)  
[BROOME VOITURE 138 LA SOCIETE DES HOMMES ET 8 CHEVAUX, INC.](#)  
[DUTCHESS COUNTY VOITURE LOCALE NO. 502, INC., LA SOCIETE DES QUARANTE HOMES ET HOIT CHEVAUX](#)  
[G.E. FOCH, SOCIETE EN COMMANDITE](#)  
[GELATINES DE HYON, SOCIETE ANONYME](#)  
[GRANDE VOITURE OF NEW YORK, INC., LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX](#)  
[J. MAISON REMOND & CIE, SOCIETE ANONYME](#)  
[JOSEPH A. KIRK VOITURE 713, LA SOCIETE DES QUARANTE HOMMES ET HUIT CHEVAUX, INC.](#)  
[L'AVENIR SOCIETE FRANCAISE DE SECOURS MUTUELS](#)  
[LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX 62ND GRAND PROMENADE INC.](#)  
[LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX GRANDE VOITURE DE NEW](#)  
[LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX OF KINGS COUNTY MEMORIAL BUILDING CORPORATION](#)  
[LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX VOITURE LOCALE NO. 386 ROCKLAND COUNTY, NEW YORK INCORPORATED](#)  
[LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX, VOITURE LOCALE 537, INC.](#)  
[LA SOCIETE DES AMIS DE KOSCIUSZKO, INC.](#)  
[LA SOCIETE DES FILLES DU ROI ET SOLDATS DU CARIGNAN, INC.](#)  
[LA SOCIETE DES QUARANTE HOMMES ET HUIT CHAVAUX, VOITURE LOCA LE NO. 92, ONEIDA COUNTY OF GRANDE VOITURE DE NEW YORK INC.](#)  
[MOD SOCIETE, LLC](#)  
[OLYMPIC AIRLINES SOCIETE ANONYME](#)  
[PYRAMID CENTERS AND COMPANY, LIMITED/ CENTRES PYRAMID ASSOCIES, SOCIETE EN COMMANDITE - \(QUEBEC L.P.\)](#)  
[SOCIETE AIR FRANCE](#)  
[SOCIETE ANONYME DES ANCIENS ESTABLISSEMENTS PANHARD & LEVASSOR](#)  
[SOCIETE ANONYME DES ANCIENS ETABLISSEMENTS C. & E. CHAPAL FRERES ET CIE](#)  
[SOCIETE ANONYME DES CELLULOSES PLANCHON](#)

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# NYS Department of State

## Division of Corporations

### Search Results

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A total of 62 entities were found.

#### Entity Name

[SOCIETE ANONYME DES USINES FILS DE ACHILLE HIRSCH ET CIE](#)  
[SOCIETE CULINAIRE PHILANTHROPIQUE DE NEW YORK](#)  
[SOCIETE CULTURELLE HAITIENNE D'ETUDES MULTIDISCIPLINAIRES ET D'ACTIONS SOCIALES INC.](#)  
[SOCIETE D'ACHATS DES MAGASINS REUNIS DE L'AMERIQUE DU NORD, INC.](#)  
[SOCIETE DE FABRICATION MATY](#)  
[SOCIETE DE PROMOTION POUR LE BATIMENT ET LE COMMERCE, INC.](#)  
[SOCIETE DES AMIS DU LOUVRE, INC.](#)  
[SOCIETE DES AMIS ET ANCIENS ELEVES DU COLLEGE NOTRE-DAME DU PERPETUEL SECOURS DU CAP-HAITIEN, SECONDASPS, INC.](#)  
[SOCIETE DES FILS DE BAGUETTE, INC.](#)  
[SOCIETE DES FRANCAIS DE LANGUE D'OC, INC.](#)  
[SOCIETE DES PRODUITS CHIMIQUES GOIGNET](#)  
[SOCIETE FRANCAISE DES FILMS ET CINEMATOGRAPHERS ECLAIR](#)  
[SOCIETE GENERALE AMERICAS](#)  
[SOCIETE GENERALE ASSET MANAGEMENT CORP.](#)  
[SOCIETE GENERALE COMMODITIES PRODUCTS, LLC](#)  
[SOCIETE GENERALE D'INVESTISSEMENT CORP.](#)  
[SOCIETE GENERALE ENERGIE \(USA\), CORP.](#)  
[SOCIETE GENERALE FINANCIAL CORPORATION](#)  
[SOCIETE GENERALE INVESTMENT CORPORATION](#)  
[SOCIETE GENERALE MEULIERE](#)  
[SOCIETE GENERALE NORTH AMERICA, INC.](#)  
[SOCIETE GENERALE SUISSE DE CHOCOLATS](#)  
[SOCIETE INDUSTRIELLE ALGERIENNE DU LIEGE](#)  
[SOCIETE INTERATIONALE DE RECHERCHES SOCIALES](#)  
[SOCIETE INTERNATIONALE POUR L'INVESTIGATION DE LA FATIGUE ET DU REPOS, INC.](#)

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# NYS Department of State

## Division of Corporations

### Search Results

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A total of 62 entities were found.

#### Entity Name

[SOCIETE INTERNATIONALE, DES ARTS, S.A., INCORPROATED](#)  
[SOCIETE ISRAELITE FRANCAISE DE SECOURS MUTUELS DE NEW-YORK](#)  
[SOCIETE MAROCAINE POUR L'EXPOSITION UNIVERSELLE DE NEW YORK](#)  
[SOCIETE MOOSHIAN, LTD.](#)  
[SOCIETE PHILANTROPIQUE DU NORD D HAITI INC.](#)  
[SOCIETE POUR LA LIBERTE, L'EGALITE ET AL FRATERNITE, LTD.](#)  
[THE GRAND VOITURE DE NEW YORK LA SOCIETE DES QUARENT LES HOMMES ET HUIT CHEVAUX](#)  
[1982 CONVENTION CORP AT NIAGARA FALLS, N](#)  
[TOKYO JOE'S SOCIETE ANONYME CORP.](#)  
[ULSTER COUNTY VOITURE LOCALE NO. 381, INC., LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX](#)  
[VOITURE 463, INC., LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX](#)  
[VOITURE LOCALE NO. 533 LA SOCIETE DES QUARANTE HOMMES ET HUIT CHEVAUX, INC.](#)  
[VOITURE LOCALE NO. 699, INC., LA SOCIETE DES 40 HOMMES ET 8 CHEVAUX, GRANDE VOITURE DE NEW YORK](#)

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# NYS Department of State

## Division of Corporations

### Search Results

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A total of 13 entities were found.

**Entity Name**

[A.K. BAINS CONSTRUCTION INC.](#)  
[BAIN'S DELI FRANCHISE ASSOCIATES](#)  
[BAIN'S SERVICE CENTER, INC.](#)  
[BAINS CONSTRUCTION INC.](#)  
[BAINS CORP.](#)  
[BAINS LAW GROUP P.C.](#)  
[BAINS TRUCKING INC.](#)  
[CHARLES & BAINS INC.](#)  
[CHIMA & BAINS LTD.](#)  
[KOLLEL D'AIX LES BAINS, INC.](#)  
[ML BAINS CONSTRUCTION CORP.](#)  
[PRINCE BAINS CONSTRUCTION CORP.](#)  
[R.S. BAINS CONSTRUCTION INC.](#)

Entities 1 to 13

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# NYS Department of State

## Division of Corporations

### Search Results

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A total of 9 entities were found.

#### Entity Name

[CERCLE ARTISTIQUE FRANCAIS, INC.](#)

[CERCLE DE L'AMITIE - \(C.D.A.\) INC.](#)

[CERCLE EXCELSIOR, INC.](#)

[CERCLE PROFESSIONAL NETWORK LLC](#)

[CERCLE TECHNIQUE AMERICANO HAITIEN INC.](#)

[L'ASSOCIATION DES RESSORTISSANTS DE L'ANCIEN CERCLE DE GRAND-LAHOU, INC. \(ARACGL\)](#)

[LE CERCLE DRAMATIQUE AMATEUR DE NEW YORK, INC.](#)

[LE CERCLE LAFAYETTE DE NEW YORK INC.](#)

[LE CERCLE LAFAYETTE DES ETATS UNIS, INC.](#)

Entities 1 to 9

The Entity Name column contains the entity names that were found based on your search criteria. To display information for an entity, tab to the entity name and press the enter key or click on the entity name. To revise your search criteria, tab to Revise Search Criteria and press the enter key or click on Revise Search Criteria. To start a new search, tab to New Search and press the enter key or click on New Search.

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## Division of Corporations

### Informational Message

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No business entities were found.

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2	<a href="#">79012561</a>		<a href="#">MONTE-CARLO BAY HOTEL &amp; RESORT</a>	TARR	LIVE
3	<a href="#">79039564</a>		<a href="#">MONTE-CARLO RESORT</a>	TARR	LIVE
4	<a href="#">79025470</a>		<a href="#">MONTE-CARLO JAZZ</a>	TARR	LIVE
5	<a href="#">79011852</a>	3139290	<a href="#">MOSAÏK MONTE-CARLO</a>	TARR	LIVE
6	<a href="#">79004560</a>		<a href="#">MONTE-CARLO BEACH HOTEL</a>	TARR	LIVE
7	<a href="#">79002914</a>	2970805	<a href="#">THERMES MARINS DE MONACO</a>	TARR	LIVE
8	<a href="#">79001564</a>	2985590	<a href="#">HOTEL DE PARIS - MONTE-CARLO</a>	TARR	LIVE
9	<a href="#">79001176</a>		<a href="#">MONTE-CARLO BEACH</a>	TARR	LIVE
10	<a href="#">79000808</a>		<a href="#">SPORTING MONTE-CARLO</a>	TARR	LIVE
11	<a href="#">78778015</a>		<a href="#">MONTE-CARLO SPA</a>	TARR	LIVE
12	<a href="#">77439870</a>		<a href="#">MONTE-CARLO BAY CASINO</a>	TARR	LIVE
13	<a href="#">77428124</a>		<a href="#">MONTE-CARLO SPORTING SUMMER FESTIVAL</a>	TARR	LIVE
14	<a href="#">77399991</a>		<a href="#">SUN CASINO</a>	TARR	LIVE
15	<a href="#">77387629</a>		<a href="#">MONTE-CARLO CASINO</a>	TARR	LIVE
16	<a href="#">77387796</a>		<a href="#">MONTE-CARLO JAZZ FESTIVAL</a>	TARR	LIVE
17	<a href="#">77329593</a>		<a href="#">CASINO DE MONTE-CARLO</a>	TARR	LIVE
18	<a href="#">77329567</a>		<a href="#">CASINO DE MONACO</a>	TARR	LIVE
19	<a href="#">77314267</a>		<a href="#">SUN CASINO</a>	TARR	LIVE
20	<a href="#">76478796</a>	3031006	<a href="#">CASINO DE MONACO</a>	TARR	LIVE
21	<a href="#">76650006</a>		<a href="#">MONTE-CARLO SPA</a>	TARR	LIVE
22	<a href="#">76537251</a>	2927343	<a href="#">THERMES MARINS MONTE-CARLO</a>	TARR	LIVE

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SOCIETE ANONYME DES BAINES DE  
MER ET DU CERCLE DES ETRANGERS A  
MONACO,

Opposer,

v.

VICTORIA PARTNERS,

Applicant.

Opposition No. 91164390

Serial No.: 76/284329

Mark: MONTE CARLO

Publication Date: October 19, 2004

**OPPOSER'S OBJECTIONS AND RESPONSES TO  
APPLICANT'S FIRST SET OF INTERROGATORIES**

Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 33 of the Federal Rules of Civil Procedure, Opposer Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco ("SBM"), by its attorneys Quinn Emanuel Urquhart Oliver & Hedges, LLP, hereby responds and objects to Applicant's First Set of Interrogatories, dated December 20, 2006 (the "Interrogatories"), as follows:

**GENERAL RESPONSES**

The following general responses are incorporated by reference in Opposer's response to each and every Interrogatory below:

A. The responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility, or use at trial of any information produced, identified, or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such responses.

B. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or information omitted from the specific responses set forth below as a result of mistake, oversight, or inadvertence.

C. The responses set forth below are based upon Opposer's interpretation of the language used in the Interrogatories, and Opposer reserves its right to amend or to supplement its responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.

D. By making these responses, Opposer does not concede it is in possession of any information responsive to any particular Interrogatory or that any response given is relevant to this action.

E. Subject to and without waiving the general responses and objections set forth herein, Opposer provides herewith information responsive to the Interrogatories that Opposer has obtained to date.

F. Because Opposer may not have discovered all the information that is possibly within the scope of the Interrogatories, Opposer expressly reserves its right to amend or to supplement these Responses and Objections with any additional information that emerges through discovery or otherwise.

**Interrogatories**

**Interrogatory No. 1**

Identify all persons with direct knowledge of the facts relating to the subject matter of this action.

**Response to Interrogatory No. 1**

Subject to and without waiving the General Responses, Opposer responds as follows:

Mr. Bernard Lambert, Directeur General, SBM  
Mr. Bernamrd Lees, Directeur des Affaires Juridiques, SBM  
Mr. Axel Hoppenot, Directeur Commercial et Marketing, SBM

**Interrogatory No. 2**

Identify each person whom Opposer employs or has employed in the United States to market, advertise, promote, and/or sell Opposer's goods or services under the CASINO DE MONTE CARLO mark.

**Response to Interrogatory No. 2**

Subject to and without waiving the General Responses, Opposer responds as follows:

Opposer currently employs the following individuals in the United States to market, advertise, promote, and/or sell Opposer's goods or services under the CASINO DE MONTE-CARLO mark:

Cathleen Williams  
Bari Goldberg

**Interrogatory No. 3**

Identify the date on which Opposer learned of Applicant's use in the United States of the MONTE CARLO mark in connection with a resort hotel or casino and describe how Opposer first became aware of such use. If Opposer cannot determine the exact date, provide the Opposer's best approximation of the date.

**Response to Interrogatory No. 3**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action. Subject to and without waiving the foregoing objections and General Responses, Opposer responds as follows:

Opposer's best approximate of the date on which Opposer learned of Applicant's use in United States of the MONTE CARLO designation is the date on which Applicant first began using the designation in commerce.

**Interrogatory No. 4**

Identify all efforts that Opposer has undertaken to stop Applicant or others from using the MONTE CARLO mark in the United States. If Opposer has not taken any action to stop Applicant or others from using the MONTE CARLO mark in the United States, described in detail why Opposer has not taken such action.

**Response to Interrogatory No. 4**

Opposer objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence; to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action; to the extent that it requests information that is known or available to Applicant; and to the extent that it requires information protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the joint-defense privilege, or any other applicable privileges or immunities. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows, and otherwise declines to respond to this Interrogatory:

Opposer has successfully contested the use of the CASINO DE MONTE-CARLO mark, and/or derivations thereof, in the United States before the World Intellectual Property



Organization (“WIPO”) and before the United States Federal Judiciary. Opposer has also sent “cease and desist” letters to potential infringers of the CASINO DE MONTE-CARLO mark, and/or derivations thereof, in the United States. Opposer refers Applicant to the documents produced in connection with Opposer’s Responses and Objections to Applicant’s First Set of Requests for Production of Documents.

**Interrogatory No. 5**

Identify all instances in which any citizen of the United States has been confused as to the source or origin of Applicant’s goods or services offered under the MONTE CARLO mark.

**Response to Interrogatory No. 5**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action. Subject to and without waiving the foregoing objections and the General Responses, Opposers respond as follows:

The information known or readily available to Opposers is insufficient to enable Opposers to identify instances in which citizens of the United States have been confused as to the source or origin of Applicant’s goods or services offered under the MONTE CARLO designation.

**Interrogatory No. 6**

Identify all instances in which any citizen of the United States has been confused as to Opposer’s approval or sponsorship of or affiliation with Applicant or its goods or services based on Applicant’s use of the MONTE CARLO mark.

**Response to Interrogatory No. 6**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action.

Subject to and without waiving the foregoing objections and the General Responses, Opposers respond as follows:

The information known or readily available to Opposer is insufficient to enable Opposer to identify instances in which citizens of the United States have been confused as to the Opposer's approval or sponsorship of or affiliation with Applicant or its goods or services based on Applicant's use of the MONTE CARLO designation.

**Interrogatory No. 7**

Identify each of the goods and services that Opposer provides or has provided since 1984 under the CASINO DE MONTE CARLO mark.

**Response to Interrogatory No. 7**

Opposer objects to this Interrogatory to the extent that it is vague, ambiguous, and overbroad and therefore not susceptible to a response as propounded; and to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows:

Opposer offers goods and services related to the tourism, resort, and casino industries. Opposer refers Applicant to the documents produced in connection with Opposer's Responses and Objections to Applicant's First Set of Requests for Production of Documents.

**Interrogatory No. 8 to the extent, take out vague**

For each of the goods and services identified in your answer to Interrogatory No. 7, identify which goods or services Opposer has provided, sold, or offered for sale in the United States.

**Response to Interrogatory No. 8**

Opposer objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the

discovery of admissible evidence; and to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows:

Opposer has provided, sold, or offered for sale in the United States goods and services related to the tourism, resort, and casino industries. Opposer has further provided, sold, or offered for sale to United States citizens outside of the United States goods and services related to the tourism, resort, and casino industries.

**Interrogatory No. 9**

For each of the goods and services identified in your answer to Interrogatory No. 7, identify the amount of revenue Opposer has generated on an annual basis from the sale of each good or service to United States citizens from 1984 to the present.

**Response to Interrogatory No. 9**

Opposer objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence; to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action; and to the extent that it seeks proprietary, sensitive, or confidential commercial information or information made confidential by law or any agreement or that reflects trade secrets. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows:

Approximately 16 percent of Opposer's customers from 2005-2006 were from North America. Prior to 2001, as high as 23% of Opposer's customers were from North America.

**Interrogatory No. 10**

For each of the goods and services identified in your answer to Interrogatory No. 7, state the years during which Opposer has provided, sold, or offered for sale each good or service in the United States.

**Response to Interrogatory No. 10**

Opposer objects to this Interrogatory to the extent that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence; to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows:

Opposer has provided, sold, or offered for sale in the United States goods and services related to the tourism, resort, and casino industries since at least as early as 1984. Opposer has further provided, sold, or offered for sale to United States citizens outside of the United States goods and services related to the tourism, resort, and casino industries since 1863.

**Interrogatory No. 11**

Identify the date on which you claim you first used the CASINO DE MONTE CARLO mark in commerce in the United States and identify all evidence that supports your contention.

**Response to Interrogatory No. 11**

Subject to and without waiving the General Responses, Opposer responds as follows:

Opposer has used its CASINO DE MONTE-CARLO mark with respect to goods and services sold to United States citizens outside the United States since 1863. Opposer's CASINO DE MONTE-CARLO mark was first used in the United States at least as early as 1928. Opposer opened an office in the United States to promote, market, and advertise its CASINO DE MONTE-CARLO mark in the United States at least as early as 1984. Opposer refers Applicant to the documents produced in connection with Opposer's Responses and Objections to Applicant's First Set of Requests for Production of Documents.

**Interrogatory No. 12**

Describe in detail Opposer's selection of the CASINO DE MONTE CARLO mark for its goods and services.

**Response to Interrogatory No. 12**

Opposer objects to this Interrogatory on the ground that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence; to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action; to the extent that it requires information protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the joint-defense privilege, or any other applicable privileges or immunities; and to the extent that it seeks proprietary, sensitive, or confidential commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer declines to respond to this Interrogatory.

**Interrogatory No. 13**

Do you contend that the CASINO DE MONTE CARLO mark as used by Opposer is descriptive and has acquired secondary meaning in the United States? Explain the basis for your response, including identifying any evidence that supports your response.

**Response to Interrogatory No. 13**

Subject to and without waiving the General Responses, Opposer responds as follows:

Yes. Opposer refers Applicant to the documents produced in connection with Opposer's Responses and Objections to Applicant's First Set of Requests for Production of Documents.

**Interrogatory No. 14**

Do you contend that the MONTE CARLO mark as used by Applicant is not descriptive? Explain the basis for your response, including identifying any evidence that supports your response.

**Response to Interrogatory No. 14**

Subject to and without waiving the General Responses, Opposer responds as follows:

Opposer lacks the knowledge to determine whether or not the MONTE CARLO designation as used by Applicant is descriptive.

**Interrogatory No. 15**

Describe in detail how and where Opposer has marketed, advertised, promoted, and/or sold its goods and services under the CASINO DE MONTE CARLO mark in the United States.

**Response to Interrogatory No. 15**

Opposer objects to this Interrogatory to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action; and to the extent that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows:

Opposer maintains an office at 505 Park Avenue, New York, NY 10022 for the purposes of marketing, advertising, promoting, and/or selling its goods and services under the CASINO DE MONTE-CARLO mark in the United States. Opposer further refers Applicant to the documents produced in connection with Opposer's Responses and Objections to Applicant's First Set of Requests for Production of Documents.

**Interrogatory No. 16**

Describe in detail the actual or potential purchasers of each of Opposer's goods and services offered in connection with the CASINO DE MONTE CARLO mark.

**Response to Interrogatory No. 16**

Opposer objects to this Interrogatory to the extent that it is vague, ambiguous, and overbroad and therefore not susceptible to a response as propounded; to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action; and to the extent that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows, and otherwise declines to respond to this Interrogatory:

The actual or potential purchasers of Opposer's goods and services offered in connection with the CASINO DE MONTE-CARLO mark include any and all individuals, worldwide, interested in purchasing goods and services in the tourism, resort, or casino industries.

**Interrogatory No. 17**

Identify each agreement, assignment, license, understanding, or other contract, grant, or transfer of rights which concerns, refers or relates to Opposer's CASINO DE MONTE CARLO mark and/or any rights in connection with such mark.

**Response to Interrogatory No. 17**

Opposer objects to this Interrogatory on the ground that it seeks information that is not relevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence; to the extent that it is overly broad, unduly burdensome, and harassing in not being limited to the time periods relevant to this action; to the extent that it requires information protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, the joint-defense privilege, or any other applicable privileges or immunities; and to the extent that it seeks proprietary, sensitive, or confidential commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer declines to respond to this Interrogatory.

**Interrogatory No. 18**

Identify each person who furnished any information on which any part of an answer to these interrogatories is based, indicating the parts based on information so furnished by such person, and whether such information is within the personal knowledge of such person, and if not within such personal knowledge, identify the source of the information so furnished.

**Response to Interrogatory No. 18**

Opposer objects to this Interrogatory on the ground that it is overly broad, unduly burdensome, and harassing. Subject to and without waiving the foregoing objections and the General Responses, Opposer responds as follows:

Mr. Bernard Lambert, Directeur General, SBM  
Mr. Bernamrd Lees, Directeur des Affaires Juridiques, SBM  
Mr. Axel Hoppenot, Directeur Commercial et Marketing, SBM

Mr. Jonathan Scharf, Associate, Quinn Emanuel Urquhart Oliver & Hedges, LLP,  
via summarization of documents reviewed and/or produced in connection with Opposer's  
Responses and Objections to Applicant's First Set of Requests for Production of Documents.

**Interrogatory No. 19**

Identify each document used, relied upon, or consulted by Opposer in connection with  
Opposer's preparation of its Notice of Opposition and its answers to these interrogatories.

**Response to Interrogatory No. 19**

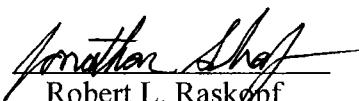
Subject to and without waiving the General Responses, Opposer responds as follows:

Opposer refers Applicant to the documents produced in connection with Opposer's  
Responses and Objections to Applicant's First Set of Requests for Production of Documents.

DATED: New York, New York  
February 23, 2007

Respectfully submitted,

QUINN EMANUEL URQUHART OLIVER &  
HEDGES, LLP

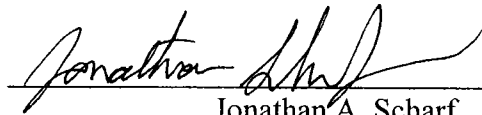
By:   
Robert L. Raskopf  
Claudia T. Bogdanos  
Jonathan A. Scharf  
51 Madison Avenue, 22nd Floor  
New York, New York 10010  
Tel: (212) 849-7173  
Fax: (212) 849-7100  
Email: jonathanscharf@quinnemanuel.com

ATTORNEYS FOR OPPOSER  
SOCIÉTÉ ANONYME DES BAINS DE MER ET DU  
CERCLE DES ETRANGERS À MONACO



**CERTIFICATE OF SERVICE**

I certify that on February 23, 2007, I caused to be served a copy of OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S FIRST SET OF INTERROGATORIES by Federal Express to Christopher Law, counsel for Applicant, at 3993 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89109.

  
\_\_\_\_\_  
Jonathan A. Scharf

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SOCIETE ANONYME DES BAINS DE MER  
ET DU CERCLE DES ETRANGERS A  
MONACO,

Opposer,

v.

VICTORIA PARTNERS,

Applicant.

Opposition No. 91164390

Serial No.: 76/284329

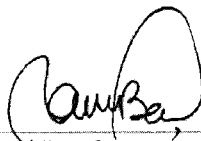
Mark: MONTE CARLO

Publication Date: October 19, 2004

**DECLARATION OF BERNARD LAMBERT**

I, BERNARD LAMBERT, hereby declare under penalty of perjury that I have read  
Opposer's Objections and Responses to Applicant's First Set of Interrogatories, dated February 23,  
2007; Opposer's Amended Objections and Responses to Applicant's First Set of Interrogatories,  
dated June 27, 2007; Opposer's Second Amended Objections and Responses to Applicant's First  
Set of Interrogatories, dated October 22, 2007; Opposer's Objections and Responses to Applicant's  
Second Set of Interrogatories, dated July 10, 2007; Opposer's Objections and Responses to  
Applicant's Third Set of Interrogatories, dated August 17, 2007; and Opposer's Amended  
Objections and Responses to Applicant's Third Set of Interrogatories, dated October 22, 2007; and  
I affirm that the facts stated therein are true and correct.

Dated: October \_\_\_\_, 2007

  
Bernard Lambert

**INVESTOR RELATIONS**[Company Information](#)  
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LAS VEGAS & MONACO--(BUSINESS WIRE)--June 20, 2003--Wynn Resorts, Limited (Nasdaq:WYNN) and Societe des Bains de Mer (Paris:BAIN.PA) today announced that, having obtained the approval of the Government of the Principality of Monaco, they have entered into a previously announced strategic alliance. The strategic alliance includes an exchange of management expertise and the development of cross-marketing initiatives between Wynn Resorts and SBM. As part of the agreement, Wynn Resorts has completed the sale of 3,000,000 shares of Wynn Resorts common stock to SBM for US\$45.0 million, representing approximately 3.6% of the outstanding shares of Wynn Resorts. In return, SBM has agreed, subject to certain exceptions, to refrain from transferring its shares prior to April 1, 2005, and will be entitled to certain registration rights thereafter.

Societe des Bains de Mer, since 1863, has the exclusive rights to operate casinos in the Principality of Monaco. The company owns and operates Le Casino de Monte-Carlo, Le Cafe de Paris, and Sun Casinos, the Hotel de Paris, the Hotel Hermitage, the Monte Carlo Beach Hotel, the Centre des Thermes Marins (Spa) and the Monte-Carlo Sporting Club. SBM is majority-owned by the Principality of Monaco and is traded on the Paris Stock exchange under the symbol BAIN.

Wynn Resorts is a developer of casino hotel resorts. Currently, Wynn Resorts is developing Le Reve, intended to be the preeminent luxury hotel casino in Las Vegas. The 2,701-room facility is anticipated to open in April 2005. Wynn Resorts, through its 82.5 percent ownership of Wynn Macau, also has been granted a concession to operate casino gaming properties in Macau, a special administrative region of the People's Republic of China and an established gaming market for over 40 years. Macau is located 37 miles southwest of Hong Kong. Wynn Resorts is traded on the NASDAQ National Market under the symbol WYNN.

This press release contains "forward-looking statements" within the meaning of the U.S. federal securities law. The forward-looking statements in this press release involve risks and uncertainties that could cause actual results to differ from those expressed in or implied by the statements herein. Additional information concerning potential factors that could affect Wynn Resorts' future results is included under the caption "Risk Factors" in Item 1 of Wynn Resorts' annual report on Form 10-K for the year ended December 31, 2002.

**CONTACT:** Wynn Resorts, Limited  
Samanta Hegedus, 702/733-4520  
investorrelations@wynnresorts.com  
or  
S.B.M.  
Yves de Toytot, + 377 92 16 62 26

**SOURCE:** Wynn Resorts, Limited


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**Return** ☒ takeoff ☐ landing

takeoff **Sat 6:30a - 4:30p**

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☒ **Depart/Return**, same airports

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